

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: JEROME A. TIMMERMANN) File No. 0500552
)

CONSENT ORDER

TO THE RESPONDENT: Jerome A. Timmermann CRD # 1179608
C/O Steven M. Sherman, Esq.
Thompson Coburn LLP
One US Bank Plaza
St. Louis, Missouri 63101

WHEREAS, Respondent Jerome A. Timmermann (the "Respondent") on April 23, 2007, executed a certain Stipulation To Enter Consent Order (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, the Respondent has admitted to the jurisdiction of the Secretary of State and service of the Notice of Hearing in this matter and the Respondent has consented to the entry of this Consent Order.

WHEREAS, the Secretary of State, by and through his designated representative, the Securities Director, has determined that the matter related to the aforesaid formal hearing may be dismissed without further proceeding.

WHEREAS, the Respondent has acknowledged, while neither admitting or denying the truth thereof, that the allegations contained in paragraph seven (7) of the Stipulation shall be adopted as the Secretary of State's Findings of Fact as follows:

1. At all times relevant, Jerome A. Timmermann was an Illinois registered salesperson and investment adviser representative through New York Life Insurance Company's securities division pursuant to Section 8 of the Illinois Securities Law of 1953, 815 ILCS 5/1 et seq. (the "Act");
2. Prior to March, 2005, Jerome A. Timmmermann sold August Timmermann three (3) New York Life variable annuities;
3. On or about March, 2005, August Timmermann passed away; at the time of his death, August Timmermann's 14 nieces and nephews, including Jerome A. Timmermann, were direct beneficiaries of the aforementioned variable annuities

Consent Order

-2-

purchased by August Timmermann (hereinafter, "beneficiaries");

4. On or about May 4, 2005, Jerome A. Timmermann sent each of the aforementioned beneficiaries a letter ("May 4, 2005, letter") (see Exhibit "A");
5. That the May 4, 2005, letter ("letter") stated that Jerome A. Timmermann and his aunts were "attempting to implement a strategy which reduces the taxable estate value" of August Timmermann's estate "so to prevent estate tax values from being eroded by taxation", and that this "strategy" involved paying the income taxes for the beneficiaries that they may incur in connection with receiving their portion of the aforementioned August Timmermann variable annuities; This letter also made the following representations:
 - a. That in working with the aunts' attorney, said strategy would save the August Timmermann estate \$90,000 to \$95,000;
 - b. That in order to "inherit" the account, this strategy "required" that the beneficiary "re-title" their portion of the death benefit from the August Timmermann variable annuity to their own name;
6. That each of the aforesaid beneficiaries had the option to receive their portion of the aforesaid death benefit in a lump sum cash disbursement rather than use said funds to purchase a new variable annuity;
7. That said attorney referenced in the May 4, 2005, letter never advised Jerome A. Timmermann that said strategy would save the August Timmermann's estate \$90,000 to \$95,000;
8. That said attorney referenced in the May 4, 2005, letter never advised Jerome A. Timmermann that said strategy required the beneficiaries to "re-title" their portions of the aforesaid death benefit;
9. That 9 of the aforesaid beneficiaries elected to purchase New York Life variable annuities (hereinafter, "variable annuities") from Jerome A. Timmermann;

Consent Order

-3-

10. That as a result of the sale of these variable annuities to the 9 aforesaid beneficiaries, Jerome A. Timmermann received \$1,882.71 in commissions for each aforesaid variable annuity policy for a total commission amount of \$16,944.39, and may receive trailing fees and continuing commissions in the future;
11. That the aforementioned beneficiaries who elected to purchase and were sold New York Life variable annuities by Jerome A. Timmermann did not, in fact, "re-title" their portion of the death benefit proceeds, but rather, the beneficiaries received lump sum distributions of the death benefit proceeds which were used to complete the purchase of the new variable annuities that they purchased through Jerome A. Timmermann;
12. That New York Life Insurance Company policy and procedures required that Jerome A. Timmermann submit the aforesaid May 4, 2005, letter for approval;
13. That New York Life Insurance Company policy and procedures prohibit agents from providing legal or tax advice and require agents to advise their customers that they may wish to contact an accountant, attorney, or tax advisor in connection with their contemplated securities or annuity transaction;
14. That Jerome A. Timmermann did not submit the aforesaid May 4, 2005, letter to New York Life Insurance Company for approval;
15. That Jerome A. Timmerman received a Letter of Reprimand from New York Life Insurance Company;
16. That the aforesaid May 4, 2005, letter formed a basis for the aforesaid Letter of Reprimand;
17. That the aforesaid May 4, 2005, letter did not contain any advice to consult an accountant, attorney or tax advisor despite containing specific discussion of and references to multiple tax issues, including, but not limited to, a representation of a strategy to "reduce the taxable estate value so to prevent estate tax values from being eroded by taxation" which would purportedly save the estate of August Timmermann \$90,000-\$95,000 in taxes by having the

Consent Order

-4-

estate pay the "income tax" associated with the death benefits received by the beneficiaries;

18. That each of the above referenced variable annuities is a security as that term is defined pursuant to Section 2.1. of the Illinois Securities Law of 1953 [815 ILCS 5/1 et seq.] (the "Act");
19. That Section 8.E.1(b) of the Act states, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a salesperson or investment adviser representative may be suspended or revoked if the Secretary of State finds that the salesperson or investor adviser representative has engaged in any unethical practice in the offer or sale of securities;
20. That Section 8.E.1(g) of the Act states, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a salesperson or investment adviser representative may be suspended or revoked if the Secretary of State finds that the salesperson or investor adviser representative has violated any of the provisions of this Act;
21. That Section 12.A of the Act provides, inter alia, that it shall be a violation of the Act for any person to offer or sell securities except in accordance with the provisions of the Act;
22. That Section 12.G of the Act provides, inter alia, that it shall be a violation of the Act for any person to obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;
23. That at all times relevant hereto, Respondent Jerome A. Timmermann, engaged in an unethical practice in the offer or sale of securities in that the Respondent violated New York Life Insurance Company policies and procedures by failing to submit the May 4, 2005, letter to New York Life Insurance Company for approval and failing to advise the recipients of said letter to obtain the advice of an accountant, attorney or tax advisor despite the fact that the letter contained advice and discussions regarding

multiple income and estate tax issues, including, but not limited to, a representation of a strategy to "reduce the taxable estate value so to prevent estate tax values from being eroded by taxation" which would purportedly save the estate of August Timmermann \$90,000 to \$95,000 in taxes by having the estate pay the "income tax" associated with the death benefits received by the beneficiaries;

24. That at all times relevant hereto, Respondent Jerome A. Timmermann obtained money or property from the aforesaid beneficiaries of the August Timmermann variable annuities by representing in his May 4, 2005, letter that in working with the aunts' attorney, the aforementioned strategy to reduce the taxable estate value of August Timmermann would save the August Timmermann's estate \$90,000 to \$95,000, and that this aforementioned strategy would require that the beneficiaries "re-title" their portion of the aforesaid death benefit into a variable annuity in their own name, where, in fact, the aforesaid aunt's attorney never advised Jerome Timmermann that the aforesaid strategy would save said estate \$90,000 to \$95,000, nor did he advise Jerome Timmermann that said strategy required that the beneficiaries "re-title" their portion of the death benefits into a variable annuity in their own name, and where, in fact, the beneficiaries that elected to purchase said variable annuities with said death benefits did not "re-title" their portion of the death benefit, but rather received a lump sum payment of the death benefit proceeds which were used to complete the purchase of a new variable annuity; Furthermore, said May 4, 2005, letter omitted any advice to consult an accountant, attorney or tax advisor as required by New York Life Insurance Company Policy, despite the fact the May 4, 2005, letter contained discussions and advice regarding multiple estate tax and income tax issues; as a result of said untrue statements and omissions, 9 of the 14 beneficiaries each purchased a New York Life variable annuity from Jerome A. Timmermann for which Jerome A. Timmermann received a total of \$16,944.39 in commissions and may receive continuing commissions and/or trailers from these policies in the future;

25. That Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsection G of Section 12 of the Act, the Secretary of State may by written order prohibit the

Consent Order

-6-

person from offering or selling any securities in this State;

26. That Section 11.E(4) of the Act provides, inter alia, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act, as well as the costs of investigation and reasonable expenses;
27. By virtue of the foregoing, Jerome A. Timmermann is subject to a fine of up to \$10,000.00 per violation, costs of investigation, reasonable expenses, an order of censure, an order which permanently prohibits the Respondent from offering or selling securities in the State of Illinois as well as an order which suspends or revokes his salesperson and investment adviser representative registrations in the State of Illinois;

WHEREAS, the Respondent has acknowledged while neither admitting or denying the truth thereof, that the allegations contained in paragraph eight (8) of the Stipulation shall be adopted as the Secretary of State's Conclusions of Law as follows:

1. That by virtue of the foregoing, the Respondent Jerome A. Timmermann, has violated Sections 12.A and 12.G of the Act;
2. That by virtue of the foregoing, the Respondent Jerome A. Timmermann is subject to a fine in the amount of \$22,000.

WHEREAS, the Respondent, Jerome A. Timmermann, acknowledges and agrees that the Respondent shall submit to New York Life Insurance Company any and all written correspondence required pursuant to the policies and procedures of New York Life Insurance Company for the duration of the time period which Respondent is subject to the policies and procedures of New York Life Insurance Company;

WHEREAS, the Respondent, Jerome A. Timmermann, acknowledges and agrees that he shall, within 60 days of the entry of aforesaid Consent Order, pay a fine in the amount of \$22,000 to the Illinois Secretary of State, and that such payment will be made by money order or cashier's check payable to the Illinois

Consent Order

-7-

Secretary of State to be deposited into the Securities Investor Education Fund;

WHEREAS, the Respondent, Jerome A. Timmermann, acknowledges and agrees that he shall forego and/or waive any and all trailing fees and continuing commissions or any other monetary payment relating to any of the aforesaid variable annuities purchased by the 9 aforesaid beneficiaries;

NOW THEREFORE IT IS HEREBY ORDERED THAT:

1. The foresaid allegations contained in the Stipulation shall be and are hereby adopted as the Secretary of State's Findings of Fact and Conclusions of Law;
2. The Respondents shall submit to New York Life Insurance Company any and all written correspondence required pursuant to the policies and procedures of New York Life Insurance Company for the duration of the time period which Respondent is subject to the policies and procedures of New York Life Insurance Company;
3. The Respondent shall, within 60 days of the entry of aforesaid Consent Order, pay a fine and costs of investigation in the amount of \$22,000 to the Illinois Secretary of State, and that such payment will be made by money order or cashier's check payable to the Illinois Secretary of State to be deposited into the Securities Investor Education Fund;
4. The Respondent shall forego and/or waive any and all trailing fees and continuing commissions or any other monetary payment relating to any of the aforesaid variable annuities purchased by the 9 aforesaid beneficiaries;

ENTERED: This 2nd day of May, 2007.



JESSE WHITE
Secretary of State
State of Illinois

Consent Order

-8-

NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12(D) of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act"). Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony.

Attorney for the Secretary of State
Johan Schripsema
Illinois Securities Department
Jefferson Terrace
300 West Jefferson Street
Suite 300A
Springfield, Illinois 62702
Telephone: (217) 524-1688

Hearing Officer:
Jon K. Ellis
Attorney at Law
1035 South 2nd Street
Springfield, Illinois 62704